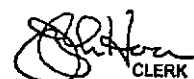


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
NOV 08 2005


CLERK

CHARLES VAN WARDHUIZEN,

Plaintiff,

CIV. 05-4166

vs.

ORDER DETERMINING
IN FORMA PAUPERIS STATUS

WARDEN WEBER, in his individual and
official capacity; DR. REGIER;
JOHN & JANE DOES, (Med aides,
Head Nurse, Unit C Staff,
Doctor who did initial examination),

Defendants.

After reviewing the plaintiff's motion to proceed in forma pauperis and the prisoner trust account report, the court finds that plaintiff is required by the Prison Litigation Reform Act, 28 U.S.C. § 1915, to make an initial partial filing fee of \$8.80 (20% of his average monthly deposits for the past three months). Plaintiff's current prison account balance is \$35.55.

Upon the record,

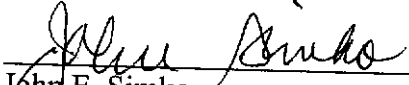
IT IS ORDERED:

1. That plaintiff's motion to proceed in forma pauperis (Doc. 3) is granted, subject to further review to determine if this action should hereafter be dismissed pursuant to 28 U.S.C. § 1915(e)(2).
2. That plaintiff shall make an initial partial fee payment for docketing and filing fees in the amount of \$8.80 to the clerk of this court on or before December 15, 2005.

3. That the institution having custody of the plaintiff is hereby directed that whenever the amount in plaintiff's trust account exceeds \$10.00, monthly payments that equal 20% of the funds credited the preceding month to the plaintiff's trust account shall be forwarded to the U.S. District Court Clerk's Office pursuant to 28 U.S.C. § 1915(b)(2), until the filing fee is paid in full.

Dated this 8th day of November, 2005.

BY THE COURT:


John E. Simko
United States Magistrate Judge

ATTEST:

JOSEPH HAAS, CLERK

By: Sherry Margulies, Deputy

(SEAL)